

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee on  
Finance (JC-Fi)

Sample:

Record of Comm. Proceedings ... RCP

- 05hrAC-EdR\_RCP\_pt01a
- 05hrAC-EdR\_RCP\_pt01b
- 05hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤ \*\*

➤ Clearinghouse Rules ... CRule

➤ \*\*

➤ Committee Hearings ... CH

➤ \*\*

➤ Committee Reports ... CR

➤ \*\*

➤ Executive Sessions ... ES

➤ \*\*

➤ Hearing Records ... HR

➤ \*\*

➤ Miscellaneous ... Misc

➤ 97hrJC-Fi\_Misc\_pt59\_LFB

➤ Record of Comm. Proceedings ... RCP

➤ \*\*

# Employment Relations Commission

(LFB Budget Summary Document: Page 223)

## LFB Summary Item for Which an Issue Paper Has Been Prepared

<u>Item #</u>	<u>Title</u>
2	Base Level Position Reductions (Paper #380)

To: Joint Committee on Finance

From: Bob Lang, Director  
Legislative Fiscal Bureau

## ISSUE

### Base Level Position Reductions (Employment Relations Commission)

[LFB Summary: Page 223, #2]

## CURRENT LAW

The Wisconsin Employment Relations Commission (WERC) has base level salary and fringe benefits funding of \$2,157,200 GPR and \$319,400 PR annually and is authorized a total of 28.5 GPR and 5.0 PR positions.

## GOVERNOR

Delete \$175,200 GPR annually of base level salary and fringe benefits funding and 3.0 GPR attorney positions in the WERC.

## DISCUSSION POINTS

1. Of the 33.5 FTE positions currently authorized for the WERC, 19.0 FTE positions are classified as attorneys, 3.0 FTE positions are classified as mediators and 3.0 FTE positions are the commissioners. The remaining 8.50 FTE positions are legal secretaries and administrative or program assistants. The 22.0 FTE attorney/mediator positions are the staff primarily responsible for processing the various types of labor relations cases which come to the Commission from employees, employee organizations and employers involving private, municipal and state employment. These proceedings include matters related to labor elections, referenda, mediation, grievance arbitrations and prohibited labor practices complaints. The majority of the Commission's caseload (89.0% based on 1995-96 experience) is from the public sector.



2. Prior to the enactment of 1995 Wisconsin Act 27 (the 1995-97 biennial budget act), virtually all mediation-type services provided by the WERC were made available at state expense to parties involved in labor disputes (the only fee charged was \$25 for complaints alleging unfair labor practices, petitions for declaratory rulings and grievance arbitration proceedings). Act 27 required that WERC establish a fee for providing its mediation-related services and shifted a portion of the Commission's attorney and mediator staff from GPR to PR funding, beginning January 1, 1996. As a result, 15.0 FTE attorney positions and 2.0 FTE mediator positions are currently GPR-funded (with base level funding of \$1,602,300 GPR annually) and 4.0 FTE attorney positions and 1.0 FTE mediator position are currently PR-funded (with base level expenditure authority of \$319,400 PR annually). The Commission's PR positions are funded from the revenues generated by a \$250 per case mediation fee which has been collected on most case filings since January 1, 1996.

3. The stated rationale for the Governor's recommendation to delete \$175,200 GPR annually and 3.0 GPR attorney positions is that the Commission's caseload has declined significantly in the past year, and that the resulting decreased workload is no longer sufficient to justify retaining the full complement of 19.0 FTE attorney positions and 3.0 FTE mediator positions at the agency. The following table summarizes WERC's actual mediation caseload experience in the last four fiscal years.

**WERC Mediation Caseload  
(1993-94 through 1996-97)**

<u>Type of Case</u>	<u>1993-94</u>	<u>1994-95</u>	<u>1995-96</u>	<u>1996-97<sup>a</sup></u>
Mediation/Interest Arbitrations	654	548	502	287
Contract Grievance Arbitrations	741	698	608	464
Fair Labor Practice Complaints	<u>177</u>	<u>178</u>	<u>159</u>	<u>160</u>
Totals	1,572	1,424	1,269	911
 % Change from Prior Year	 ---	 -9.4%	 -10.9%	 -28.2%

<sup>a</sup>Projected annual caseload based on actual case filings through March 31, 1997.

4. The WERC believes that the following factors have contributed to the declining caseload (particularly mediation/interest arbitration cases) evidenced in the above table.

- Provisions of 1993 Wisconsin Act 16 established "qualified economic offer" provisions applicable to school district employers and their represented professional employees. School district employers may now avoid binding and compulsory arbitration on wages and fringe benefits if they offer their represented professional employees a wage and fringe benefits package meeting certain minimum percentage increase criteria. Most school

district employers now routinely make a qualified economic offer and thereby obviate the possibility of binding arbitration on wages and fringe benefits. As a result, the WERC may not even be involved in any preliminary mediation efforts between the parties.

- Provisions of Act 16 also established two-year contract terms for school district represented employees. These labor contracts now expire uniformly on June 30 of each odd-numbered year. Consequently, the WERC no longer has a flow of cases from school districts involving one-year contract terms or contracts which terminate at different times of the year, other than June 30 of each odd-numbered year.

- The imposition of a \$250 filing fee for mediation and arbitration services appears to have had a significant impact on the number of case filings. The sharpest caseload decline in the above table was experienced in 1996-97, the year following the imposition of the fee.

5. The Governor's proposed deletion of 3.0 FTE of the agency's 22.0 FTE attorney/mediator positions represents a 13.6% reduction in such staff. While DOA has not provided any detailed rationale regarding how this specific level of staffing reduction was selected, the reduction is less than the projected 28.2% caseload decline between 1995-96 and 1996-97. However, the WERC argues that additional attorney/mediator position reductions would not be warranted based solely on such caseload volume considerations for the following reasons:

- While overall caseload has declined, the number of complex cases requiring extensive written decisions and a greater proportion of staff time has remained relatively constant. These types of cases are expected to continue to occupy a considerable amount of available staff time.

- Following a three-year transitional phase, all school district contracts involving represented professional employees will uniformly expire for the first time on June 30, 1997. It is unknown at this time whether qualified economic offers governing the next two fiscal years (1997-98 and 1998-99) will continue to be routinely agreed to by the parties or whether the Commission might experience an increase over the current level of requests for its mediation services during the summer and fall of 1997.

6. The staff reductions taken by the Governor do recognize a portion of the caseload reduction experienced by the WERC in the last two years. Further, since there is uncertainty whether 1997-98 caseload might increase over current projected levels for 1996-97, additional reductions in attorney/mediator staffing based solely on current caseload statistics may not be warranted at this time. Nonetheless, there are three other related staffing allocation questions which the Committee may wish to consider.

7. First, a question may be raised why the proposed reduction of the 3.0 FTE positions is applied solely to the GPR-funded attorney/mediator staff. The reductions in caseload

cited as the principal rationale for making the base level staffing deletions have been experienced by the total attorney/mediator staff, regardless of funding source. Presumably, the entire reduction was taken from the GPR-funded portion of the agency's budget to achieve larger GPR savings. However, it could be argued that the reduction should instead be applied uniformly across the entire staff, in proportion to the overall funding source splits for the attorney/mediator positions. Under this approach, the Committee could modify the Governor's recommendation by imposing a base level reduction of \$134,900 GPR and \$40,300 PR annually and by deleting position authority for 2.30 GPR positions and 0.7 PR positions.

8. Second, regardless of any action to shift a portion of the base level reductions to PR-funded functions in the agency, the Committee may also wish to review the degree to which the current fee structure is capable of supporting the existing authorized level of PR-funded staff. Currently, the Commission assesses filing fees of \$250 on all mediation/interest arbitration matters and on grievance arbitrations. Fair labor practice complaints are assessed a filing fee of \$25. Based on the projected caseload for the 1996-97 fiscal year, total revenues are estimated at \$191,800 PR.

9. This projected revenue stream is insufficient to support existing base level expenditure authority of \$319,400 PR and 5.0 PR positions. Currently, 1.0 PR attorney position has been vacant for over one year. This position, budgeted at \$46,000 PR annually, has not been filled because the agency has insufficient revenues to support it. Further, even if that vacant position were deleted, it is unlikely that the Commission can support even the remaining 4.0 FTE attorney and mediator positions (currently budgeted at \$273,400 PR). The Commission has managed to retain the incumbents in these positions by periodically shifting one or more of the employees in these positions to GPR funding as vacancies in GPR-funded positions have developed elsewhere in the agency.

10. Because of the current revenue stream insufficiency, it could be argued that no more than 2.5 PR positions at a total budget of \$191,200 PR can realistically be supported. If the Committee acted to delete 2.5 PR existing attorney positions, a total of 2.5 PR positions (1.5 attorney and 1.0 mediator) budgeted at \$191,200 PR would remain. This authorized expenditure level would be within the amount of revenues projected to be generated based on the current level of cases for which fees are assessed. Under this approach, if there is a sustainable increase in the total number of mediation requests after June 30, 1997, the agency could request an increase in the level of PR staff at that time. Such a request would have to provide evidence that workload justified such an increase and that the additional expenditure authority was supportable by a reliable revenue stream.

11. Third, if there is to be a reduction in attorney/mediator staff, the Committee may wish to consider whether there should also be an associated reduction in support staffing. The WERC currently has 8.50 FTE support staff, including 4.0 FTE legal secretaries, all GPR-funded. The legal secretary staff is allocated as follows: 1.0 FTE supports the three commissioners and the agency's chief counsel and 3.0 FTE support three legal teams, comprised of the remaining

21.0 attorney/mediator staff. The Governor's recommendation represents a 13.6% reduction in overall attorney/mediator staff (14.3%; if the agency's chief counsel position is excluded from the calculation). Under either calculation, a comparable reduction applied to direct legal secretary support would equate to an approximate 0.5 FTE reduction in such staffing support. If the additional 2.5 PR-funded attorney positions were also deleted, this action would represent an approximate 25% reduction in total attorney/mediator staff. A similar reduction applied to direct legal secretary support would equate to an approximate 1.0 FTE reduction in such staffing support.

12. The agency has indicated that it is difficult to attribute the recent workload reductions from the decline in case filings exclusively to any one of the existing three staff legal teams. Rather, it feels that the workload reductions have been experienced generally across all of the teams and, the agency argues, may not be sufficient on any one team to justify the deletion of any support staff. Further, the agency believes that the elimination of 0.5 FTE or 1.0 FTE legal secretary position could require a reconfiguration of existing staff legal teams, with an undetermined impact on agency operations. While these considerations may have merit, it should be noted that caseload reductions must ultimately exceed a threshold beyond which support staff reductions are warranted. If the Committee concludes that current caseload experience suggests that this threshold has now been reached, it may choose to apply a workload-related reduction to the number of authorized legal secretary positions in the agency. Alternatively, if the Committee determines that this threshold has not yet been reached, it may limit any workload-related position reductions to the agency's attorney/mediator staff.

## ALTERNATIVES TO BILL

1. Approve the Governor's recommendation.
2. Instead of the Governor's recommendation, delete \$134,900 GPR and \$40,300 PR and 2.3 GPR and 0.7 PR attorney positions.

<u>Alternative 2</u>	<u>GPR</u>	<u>PR</u>	<u>TOTAL</u>
1997-99 FUNDING (Change to Bill)	\$80,600	- \$80,600	\$0
1998-99 POSITIONS (Change to Bill)	0.70	- 0.70	0.00

3. Delete \$87,900 PR annually and 1.8 PR attorney positions. *[This Alternative may be adopted in addition to Alternative 2.]*

<u>Alternative 3</u>	<u>PR</u>
1997-99 FUNDING (Change to Bill)	- \$175,800
1998-99 POSITIONS (Change to Bill)	- 1.80



4. Delete \$128,200 PR annually and 2.5 PR attorney positions. *[This Alternative may be adopted in addition to Alternative 1.]*

<u>Alternative 4</u>	<u>PR</u>
1997-99 FUNDING (Change to Bill)	- \$256,400
1998-99 POSITIONS (Change to Bill)	- 2.50

5. Delete \$15,500 GPR annually and 0.5 GPR legal secretary position. *[This alternative may be adopted in addition to Alternatives 1 or 2.]*

<u>Alternative 5</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$31,000
1998-99 POSITIONS (Change to Bill)	- 0.50

6. Delete \$31,000 GPR annually and 1.0 GPR legal secretary position. *[This alternative may be adopted only if Alternatives 3 or 4 are adopted.]*

<u>Alternative 6</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	- \$62,000
1998-99 POSITIONS (Change to Bill)	- 1.00

7. Maintain current law.

MO# \_\_\_\_\_

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A

Mason

JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

<u>Alternative 7</u>	<u>GPR</u>
1997-99 FUNDING (Change to Bill)	\$350,400
1998-99 POSITIONS (Change to Bill)	3.00

AYE \_\_\_\_\_ NO \_\_\_\_\_ ABS \_\_\_\_\_

# EMPLOYMENT RELATIONS COMMISSION

## Base Level Position Reductions

### Motion:

Move to delete the Governor's recommendation to eliminate \$175,200 GPR annually of base level salary and fringe benefits funding and 3.0 GPR attorney positions and instead delete \$46,000 PR and 1.0 PR vacant attorney position.

### Note:

This motion would restore 3.0 GPR attorney positions and \$175,200 GPR of associated funding which would be deleted under the bill. The motion would delete 1.0 PR vacant attorney position and associated funding of \$46,000 PR annually.

[Change to Bill: \$350,400 GPR, -\$92,000 PR and 3.0 GPR, -1.0 PR positions]

MO# 1503

BURKE	Y	N	A
DECKER	Y	N	A
GEORGE	Y	N	A
JAUCH	Y	N	A
WINEKE	Y	N	A
SHIBILSKI	Y	N	A
COWLES	Y	N	A
PANZER	Y	N	A
JENSEN	Y	N	A
OURADA	Y	N	A
HARSDORF	Y	N	A
ALBERS	Y	N	A
GARD	Y	N	A
KAUFERT	Y	N	A
LINTON	Y	N	A
COGGS	Y	N	A

AYE 8 NO 8 ABS 0

EMPLOYMENT RELATIONS COMMISSION

Transfer Office to Milwaukee

Motion:

Move to amend the bill to transfer the location of the Commission's office from Madison to Milwaukee.

[Change to Bill: \$0]

MO# 1506

2 BURKE	(Y)	N	A
DECKER	(Y)	N	A
1 GEORGE	(Y)	N	A
JAUCH	Y	(N)	A
WINEKE	Y	(N)	A
SHIBILSKI	Y	(N)	A
COWLES	Y	(N)	A
PANZER	(Y)	N	A
JENSEN	Y	(N)	A
OURADA	Y	(N)	A
HARSDORF	Y	(N)	A
ALBERS	Y	(N)	A
GARD	Y	(N)	A
KAUFERT	Y	(N)	A
LINTON	(Y)	N	A
COGGS	(Y)	N	A

AYE 6 NO 10 ABS 0

## **EMPLOYMENT RELATIONS COMMISSION**

### **LFB Summary Item for Which No Issue Paper Has Been Prepared**

<u>Item #</u>	<u>Title</u>
1	Standard Budget Adjustments

### **LFB Summary Item for Introduction as Separate Legislation**

<u>Item #</u>	<u>Title</u>
3	Arbitration Settlement Factors -- Milwaukee City Police